

**PETITION TO ACCEPT UNAVOIDABLY DELAYED PAYMENT OF
MAINTENANCE FEE IN EXPIRED PATENT (37 C.F.R. § 1.378(b))**

Attorney Docket
No. 059952/420058

**Mail to: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Patent No.: 6,312,349
Issue Date: November 6, 2001

Application No.: 09/430,756
Filing Date: October 29, 1999

Also complete the following information, if applicable.

The above-identified patent:

- ☐ is a reissue of original Patent No.:
original issue date
original application number
original filing date
- ☐ resulted from the entry into the U.S. under 35 U.S.C. § 371
of international application filed on

1. **SMALL ENTITY**

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27

2. **LOSS OF SMALL ENTITY STATUS**

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g).

3. **MAINTENANCE FEE (37 CFR 1.20(e)-(g)):**

The appropriate maintenance fee **must** be submitted with this petition, unless it was paid earlier.

			Small Entity	NOT Small Entity
<input type="checkbox"/>	3.5 years	(37 C.F.R. § 1.20(e))	\$ 565.00	\$ 1,130.00
<input checked="" type="checkbox"/>	7.5 years	(37 C.F.R. § 1.20(f))	\$ 1,425.00	\$ 2,850.00
<input type="checkbox"/>	11.5 years	(37 C.F.R. § 1.20(g))	\$ 2,365.00	\$ 4,730.00

MAINTENANCE FEE BEING SUBMITTED \$ 1,425.00

4. **SURCHARGE**

The surcharge required by 37 C.F.R. § 1.20(i)(1) of **\$700.00** is also being paid as a condition of accepting unavoidably delayed payment of the maintenance fee.

SURCHARGE BEING SUBMITTED \$ 700.00

5. **MANNER OF PAYMENT**

- ☐ Enclosed is a check for the sum of \$
- ☐ The required fees are being paid during e-filing.
- ☒ The Commissioner is hereby authorized to charge the maintenance and surcharge fee to Deposit Account No.16-0605 upon grant of the Petition.
- ☒ The Commissioner is hereby authorized to charge any maintenance or surcharge fee deficiency or to credit any overpayment to Deposit Account No.16-0605.

6. **SHOWING**

The enclosed statement will show that the delay in timely payment of the maintenance fee was unavoidable since reasonable care was taken to ensure that the maintenance fee would be paid timely and that this petition is being filed promptly after the patentee was notified of, or otherwise became aware of, the expiration of the patent. The statement must enumerate the steps taken to ensure timely payment of the maintenance fee, the date and the manner in which the patentee became aware of the expiration of the patent, and the steps taken to file the petition promptly.

PETITIONER REQUESTS THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED.

Also enclosed is a Revocation and New Power of Attorney by the record owner, T. Sanford ROBERTS, to Customer Number 00826. Please also enter this Power of record.

Respectfully submitted,

/Christopher P. Lightner/

Christopher P. Lightner
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of: T. Sanford ROBERTS

Application No.: 09/430,756
Filed 10-29-1999

Confirmation No.: 7710
Art Unit: 3711

For: SPORTS TRAINING DEVICE

Examiner: Aryanpour, Mitra

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

**STATEMENT IN SUPPORT OF PETITION TO ACCEPT
UNAVOIDABLY DELAYED PAYMENT OF MAINTENANCE FEE
IN AN EXPIRED PATENT UNDER 37 C.F.R. § 1.378(b)**

Sir:

Patentee petitions concurrently herewith under 37 C.F.R. § 1.378(b) to accept unavoidably delayed payment of maintenance fee in an expired patent. Provided below is a statement providing the necessary showing in support of the petition.

STATEMENT

I, T. Sanford ROBERTS, do hereby declare that:

1. I retained patent attorney and solo practitioner John B. Dickman, III and fully delegated to Mr. Dickman responsibility for maintaining the above-referenced application in force as issued U.S. Patent No. 6,312,349 ("the '349 patent"), which issued on November 6, 2001.

2. I fully relied upon Mr. Dickman to ensure that the '349 patent remained in force, as all correspondence from the United States Patent and Trademark Office ("USPTO") was sent directly to Mr. Dickman, who in turn contacted me regarding any outstanding actions. The below-enclosed USPTO Patent Bibliographic Data, collected on June 7, 2012, reflects this arrangement, as follows:

Patent Bibliographic Data		06/07/2012 01:13 PM	
Patent Number:	6312349	Application Number:	09430756
Issue Date:	11/06/2001	Filing Date:	10/29/1999
Title:	SPORTS TRAINING DEVICE		
Status:	Expired for non-payment on: 11/06/2009		Entity: Small
Window Opens:	11/06/2008	Surcharge Date:	05/07/2009
Fee Amt Due:	\$0.00	Surchg Amt Due:	\$0.00
Fee Code:		Total Amt Due:	\$0.00
Surcharge Fee Code:			
Most recent events (up to 7):	11/06/2009 Patent Expired for Failure to Pay Maintenance Fees 05/18/2009 Maintenance Fee Reminder Mailed 11/22/2004 Payment of Maintenance Fee, 4th Yr, Small Entity. --- End of Maintenance History ---		
Address for fee purposes:	JOHN B DICKMAN JR SUITE 1203 CRYSTAL PLAZA BUILDING 1 2001 JEFFERSON DAVIS HIGHWAY ARLINGTON VA 22202-0286		

3. In 2004, Mr. Dickman contacted me regarding payment of the 4th year, small entity maintenance fee, as his maintenance fee calendaring and payment system indicated such payment was coming due.
4. As a result of this contact, on November 22, 2004, the 4th year, small entity maintenance fee was paid in a timely fashion for the '349 patent.

5. Since 2004, I have received no further correspondence from Mr. Dickman.
6. On May 5, 2012, I met attorney Joe Gleason at a social function and briefly discussed with him a device that I believe to be potentially infringing the '349 patent. Mr. Gleason agreed to look into the matter further on my behalf.
7. On May 15, 2012, Mr. Gleason informed me via email that the '349 patent had expired on November 6, 2009. Still further, Mr. Gleason informed me that, according to publicly available records, Mr. Dickman had died in April 2005. Mr. Gleason forwarded me a link to Mr. Dickman's obituary notice, a portion of which is reproduced below:

Death Notice

John B. Dickman III



DICKMAN, JOHN B., III

On April 20, 2005, JOHN B. DICKMAN, III of Washington, DC. He is survived by his loving brother, William Joseph Dickman of Franklin, NC and long time companion, Betty Tolbert of Washington, DC, three nieces and one nephew. Relatives and friends are invited to call at JOSEPH GAWLER'S SONS, INC., 5100 Wisconsin Ave. (corner of Harrison St., N.W.), Washington, DC, 20016 on Sunday from 3 to 6 p.m. A Mass of Christian Burial will be celebrated at St. Ann's Catholic Church, 4400 Wisconsin Ave. (corner of Yuma St., N.W.), Washington, DC 20016 on Monday, April 25, 2005 at 10 a.m. Interment Mt.

Olivet Cemetery.

Published in The Washington Post from April 23 to April 24, 2005

8. Prior to May 15, 2012, I had no knowledge of either (1) the '349 patent's expiration or (2) Mr. Dickman's death.

9. Since May 15, 2012, I have acted promptly in requesting that Mr. Gleason coordinate filing an appropriate petition to request acceptance of my unavoidably delayed payment of the 8th year, small entity, maintenance fee for the '349 patent.

10. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.


T. Sanford ROBERTS

6-18-12
Date